



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 6

[FRL-9984-09-OP]

Amendment of the NEPA Official Under Procedures for Implementing the National Environmental Policy Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule amends the Environmental Protection Agency's ("EPA") responsibility of the NEPA Official under its existing regulations for "Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions." This amendment is a result of an agency reorganization that only impacts a title change of the designated NEPA Official under the existing regulations. This amendment is procedural in nature and none of these changes are intended to substantively alter the Agency's compliance with the National Environmental Policy Act for the EPA's actions.

DATES: This final rule is effective on **[insert date of publication in the Federal Register]**.

FOR FURTHER INFORMATION CONTACT: Jessica Trice, Office of Federal Activities, NEPA Compliance Division (MC 2252A), Environmental Protection Agency, 1200 Pennsylvania Ave. N.W., Washington, D.C. 20460; telephone number: (202) 564-6646; email address: trice.jessica@epa.gov.

SUPPLEMENTARY INFORMATION: This is organized according to the following outline:

I. General Information

A. Why is the EPA issuing this rule in final form without first issuing a proposal?

B. Does this action apply to me?

C. Statutory Authority

D. Background

II. EPA's Final Action

III. Statutory and Executive Order Reviews

I. General Information

A. Why is the EPA issuing this rule in final form without first issuing a proposal?

This final rule is limited to a procedural change in title of the designated NEPA Official under existing regulations as a result of an agency reorganization. Under the Administrative Procedure Act, an agency may issue “rules of agency organization, procedure, or practice” without first proposing such rules for public comment. 5 U.S.C. 553(b). Accordingly, public comment is not required.

B. Does this action apply to me?

This action affects only two agency officials associated with responsibilities for EPA's NEPA compliance due to the reorganization of the Office of Federal Activities within the EPA. The agency officials affected include the Assistant Administrator for the Office of Enforcement and Compliance and the Associate Administrator for the Office of Policy.

C. Statutory Authority

The National Environmental Policy Act (NEPA) establishes the federal government's national policy for protection of the environment (42 U.S.C. 4321–75). The Council on Environmental Quality's (CEQ) regulations at 40 CFR parts 1500 through 1508 establish procedures implementing this national policy. The CEQ's regulations (40 CFR 1505.1) require federal agencies to adopt and, as needed, revise their own NEPA implementing procedures to supplement the CEQ regulations and to ensure their decision-making processes are consistent with NEPA. The EPA is taking this action—changing the title of the designated NEPA Official under existing regulations as a result of an agency reorganization—under the authority of 5 U.S.C. 301.

D. Background

The EPA established regulations for implementing NEPA and Executive Order 12114, “Environmental Effects Abroad of Major Federal Actions,” titled “Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions” (40 CFR part 6). Title 40 CFR 6.102 of the Agency's current regulations provide additional definitions applicable to 40 CFR part 6, subparts A through C, including the designation of the Assistant Administrator for Enforcement and Compliance Assurance as the EPA's “NEPA Official.” The NEPA Official is responsible for the EPA's compliance with NEPA. The Office of Federal Activities, historically within the Office of Enforcement and Compliance Assurance, provides support and guidance to the designated NEPA Official regarding the EPA's compliance with NEPA. Effective on April 29, 2018, an agency reorganization moved the Office of Federal Activities from the Office of

Enforcement and Compliance Assurance to the Office of Policy within the Office of the Administrator.

II. EPA's Final Action

As a result of the reorganization, this final Agency rule implements a procedural change that amends the title of the designated NEPA Official under existing regulations from the Assistant Administrator for Enforcement and Compliance Assurance to the Associate Administrator for the Office of Policy. This amendment is procedural in nature and none of these changes are intended to substantively alter the Agency's compliance with NEPA for the EPA's actions.

III. Statutory and Executive Order Reviews

A. Executive Orders 12866: Regulatory Planning and Review and 13563: Improving Regulation and Regulatory Review

This action is exempt from review by the Office of Management and Budget (OMB) because it is limited to agency organization, management, or personnel matters.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act

This action does not impose an information collection burden under the PRA.

D. Regulatory Flexibility Act

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedures Act (APA), 5 U.S.C. 553, or any other statute. This rule pertains to agency management or personnel, which the APA expressly exempts from notice and comment rulemaking requirements under 5 U.S.C. 553(a)(2).

E. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate as described in the Unfunded Mandates Reform Act, 2 U.S.C. 1531–38, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct

effect on the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. This action implements a procedural change to the title of the designated NEPA Official under existing regulations. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

I. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

The action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action implements a procedural change to the title of the designated NEPA Official under existing regulations.

L. Congressional Review Act

This rule is exempt from the CRA because it is a rule relating to agency management or personnel.

List of Subjects in 40 CFR Part 6

Environmental protection, Environmental impact statements, Foreign relations, Grant programs, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: September 13, 2018.

Andrew R. Wheeler,
Acting Administrator.

For the reasons set forth in the preamble, the Environmental Protection Agency amends 40 CFR part 6 as follows:

**PART 6—PROCEDURES FOR IMPLEMENTING THE NATIONAL
ENVIRONMENTAL POLICY ACT AND ASSESSING THE ENVIRONMENTAL
EFFECTS ABROAD OF EPA ACTIONS**

1. The authority citation for part 6 is revised to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; also 40 CFR parts 1500 through 1508, unless otherwise noted.

2. Section 6.102 is amended by revising paragraph (b)(8) to read as follows:

§ 6.102 Definitions.

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(b)* * *

(8) *NEPA Official* is the Associate Administrator for the Office of Policy, who is responsible for EPA's NEPA compliance.

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